

BEFORE THE PUBLIC SERVICE COMMISSION OF NEBRASKA

In the Matter of the Nebraska Public Service) Application No. NUSF-100
Commission, on its own motion, to consider) PI-193
revisions to the universal service fund)
contribution methodology.)

DIRECT PRE-FILED TESTIMONY OF STACEY BRIGHAM

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1 **Introduction**

2 **Q. Please state your name and business address.**

3 A. My name is Stacey Brigham. My business address is: 526 Chapel Hills Drive, Colorado
4 Springs, CO 80920.

5

6 **Q. By whom are you employed and in what capacity?**

7 A. I am a Senior Regulatory Consultant at TCA, Inc. – Telcom Consulting Associates
8 (“TCA”), a telecommunications consulting firm. TCA provides financial, regulatory,
9 marketing and management consulting services to small and midsize carriers throughout
10 the United States.

11

12 **Q. Please summarize your educational background and relevant professional
13 experience.**

14 A. I received a Bachelor of Science degree in business management from Colorado Christian
15 University in 2010. I have been employed with TCA since 2007, but began my role as a
16 regulatory consultant in 2010. In this role I have participated in many proceedings, both
17 at the Federal Communications Commission (“FCC”) and the Nebraska Public Service
18 Commission (“Commission”).

19

20 **Q. On whose behalf are you presenting testimony?**

21 A. I am testifying on behalf of the Rural Telecommunications Coalition of Nebraska
22 (“RTCN”), which consists entirely of incumbent local exchange carriers (“LEC”) providing basic local exchange and other telecommunications and advanced services to
23

1 rural Nebraskans.¹ All of the members of the RTCN have been designated Nebraska
2 Eligible Telecommunications Carriers (“NETC”), a status that provides access to support
3 from the Nebraska Universal Service Fund (“NUSF”).
4

5 **Background**

6 **Q. Please briefly summarize the history of this proceeding.**

7 A. On November 13, 2014, the Commission opened the above-captioned proceeding to
8 consider revisions to the contribution mechanism of the NUSF. Interested parties filed
9 initial comments on February 13, 2015, and reply comments on April 13, 2015. On April
10 5, 2016, the Commission sought additional comments related to changing the NUSF
11 contribution method, its proposed strategic goals and other issues. Interested parties
12 again provided comments on June 6, 2016. On July 12, 2016, the Commission released
13 an Order Soliciting Briefs asking for legal opinions on its proposal to change the
14 contribution method. Three initial briefs were filed on August 3, 2016 and reply briefs
15 were filed on August 26, 2016. Based upon these filings, the Commission has modified
16 its proposals and has set a timeline for testimony and a hearing with a target
17 implementation date of January 1, 2018.
18

19 **Q. Has RTCN been an active participant in this proceeding?**

¹ For purposes of this proceeding, RTCN is made up of the following carriers: Arapahoe Telephone Company d/b/a ATC Communications, Benkelman Telephone Company, Inc., Cozad Telephone Company, Diller Telephone Company, Glenwood Network Services, Inc., The Glenwood Telephone Membership Corporation, Hartman Telephone Exchanges, Inc., Hemingford Cooperative Telephone Co., Mainstay Communications, Pierce Telephone Company, Plainview Telephone Company, Southeast Nebraska Communications, Inc., and Wauneta Telephone Company.

1 A. Yes. RTCN members receive substantial support from NUSF, allowing them to offer
2 telecommunications and advanced services in high cost areas of Nebraska, and their
3 customers contribute to the fund. Therefore, any changes to the contributions
4 methodology or NUSF remittance amounts will directly impact their operations.
5 Accordingly, RTCN has participated in every round of the above solicitation for
6 comment listed above and filed a reply brief.

7
8 **Q. Please summarize RTCN's advocacy in this proceeding.**

9 A. RTCN has consistently advocated that the Commission should take expeditious steps to
10 stabilize NUSF. RTCN initially advocated for a connections/revenues hybrid
11 methodology to provide for contributions from all providers of intrastate
12 telecommunications service. However, the Commission's tiered business connections-
13 based approach sufficiently ensures equitable treatment of all providers and customers of
14 intrastate telecommunications services.

15

16 **Connections-based Methodology**

17 **Q. Does RTCN generally support the Commission's proposed Connections-based**
18 **Contributions Structure?**

19 A. Yes, RTCN's primary concern in this proceeding is to stabilize the NUSF, which is
20 demonstrably unsustainable under its current revenues-based contributions methodology.²

² In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology, Application No. NUSF-100, PI-193, Order and Seeking Further Comments

1 Therefore, I support the adoption of the Commission's tiered-business connections-based
2 methodology, which recognizes the revenues generated by customers. This is consistent
3 with RTCN's advocacy of a hybrid contribution method with the added benefit of
4 administrative simplicity.

5

6 **Q. Is the Commission's proposal easy to administer?**

7 A. Yes. The proposal to use working numbers as a surrogate for connections is easy to
8 administer as this is information that is readily obtainable and reported semiannually on
9 the Form 502 – Number Utilization Forecast by all entities with access to numbers to the
10 North American Number Plan Administration.

11

12 **Q. Does RTCN support the use of a flat rate contribution amount as proposed?**

13 A. Yes, using a flat rate is an equitable treatment for assessing contributions on connections.

14

15 **Q. Are the flat rates for each type of connection equitable?**

16 A. Yes. The Commission has appropriately split the connections into mobile, fixed
17 residential and tiered business voice connections and proposes to apply a flat rate to each
18 type. RTCN supports contribution reform that ensures each end user is contributing its
19 fair share to the fund. RTCN supports the Commission's approach of first determining
20 the proportional surcharge split between mobile and fixed voice services and then further
21 splitting fixed voice services into residential and tiered business and determining the

and Setting Hearing ("Order Setting Hearing") (February 22, 2017). at p.1. The Commission indicates that remittances will decline by nearly 40% in the next two years.

1 proportional surcharge needed for each of these connections. While the breakout of fixed
2 connections into residential and business are only estimates and provided for illustrative
3 purposes, the methodology for determining the surcharge for each service appears
4 equitable and ensures that business customers pay their fair share without overburdening
5 multi-line business customers.

6
7 **Q. Does the Commission's proposal provide stability?**

8 A. Yes. The Commission points out that while assessable intrastate revenues have declined,
9 connections have remained relatively stable.³ Therefore, assessing contributions on
10 connections rather than revenues would likely provide stability and sustainability of
11 NUSF.

12
13 **Q. Would changes to the federal contributions mechanism effect the viability of the
14 Commission's proposed Connections-based Contributions Structure?**

15 A. No, it is unlikely that changes to the federal contributions mechanism would impact
16 Nebraska contributions.

17
18 **Q. Why not?**

19 A. Federal contributions are assessed on interstate services and state contributions are
20 assessed on intrastate services, therefore, these are separate and unrelated fees, and
21 changes in one jurisdiction are not likely to impact the treatment of the other.

³ *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology*, Application No. NUSF-100, PI-193, Order Seeking Further Comments (April 5, 2016).

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Q. Please elaborate.

A. Congress recognized the mission of universal service is a federal and state joint effort. Accordingly, it affords states with the right to adopt regulations to preserve and advance universal service. Specifically:

A State may adopt regulations not inconsistent with the [FCC]'s rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, *in a manner determined by the State* to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for *additional* definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt *additional* specific, predictable, and sufficient mechanisms to support such definitions or standards that *do not rely on or burden Federal universal service support mechanisms.*⁴

Nowhere in this authority are states required to utilize the same method established by the FCC (i.e., the current revenues-based contribution mechanism). Indeed, by that logic, if the FCC were to change its methodology to a connections-based approach, as it has proposed in the past,⁵ every state fund with an existing revenue-based contribution method would be in violation. Instead, the wording specifically indicates that states can determine the manner in which contributions are made as long as they are equitable and non-discriminatory, and do not burden the Federal Universal Service Fund.

⁴ 47 U.S.C. §254(f) (emphasis added).

⁵ *In the Matter of Universal Service Contribution Methodology*, WC Docket No. 06-122; *A National Broadband Plan for Our Future*, GN Docket No. 09-51 (rel. April 30, 2012) (FCC 12-46). at para. 5.

1 The Commission's current proposal appears consistent with these requirements by
2 specifying that only connections allowing customers to use intrastate telecommunications
3 service are assessable and targeting such connections.

4

5 **Q. Is the Commission's proposal competitively neutral?**

6 A. Yes. It appears that the Commission has met its obligations to be competitively neutral by
7 proposing definitions for a connection and an assessable service that do not rely on any
8 particular technology to deliver.

9

10 **Q. Do you agree with the Commission's modified definition of an assessable
11 connection?**

12 A. Yes, I agree that the use of working telephone numbers as a method of determining
13 whether connections are assessable is appropriate. This method eliminates any potential
14 ambiguity on the definition of a connection and properly isolates the type of connections
15 providing intrastate telecommunications services, ensuring that non-assessable services
16 are not inadvertently included.

17

18 **Q. Are there steps the Commission should take to make sure it can adapt its plan if
19 needed?**

20 A. The Commission should keep this docket open to ensure it is prepared to respond to any
21 concerns or unforeseen complications to this proposal.

22

1 **Q. Has the Commission proactively resolved the legality of a connection-based**
2 **approach?**

3 A. Yes. The Commission issued an *Order Seeking Briefs*.⁶ While I am not an attorney, it
4 appears that the most compelling legal arguments supported the strong legal basis for a
5 connection-based approach to NUSF contributions. The Commission has concluded that
6 its contribution reform proposal is legally sustainable and I believe the Commission has
7 made the correct decision.

8

9

Right-Sizing the NUSF

10 **Q. Do you agree with the Commission's proposal to increase the budget for NUSF?**

11 A. Yes, I am in complete agreement. This is an excellent step toward returning the fund to
12 its former levels. According to Commission estimates, if it does not take action, NUSF
13 remittances will be no higher than 42.7% of 2005 levels by 2018. During the same
14 period, the Fixed Broadband Program has incurred even larger reductions – dropping
15 from \$73 million to \$35 million in 2017, a 48% reduction in remittances.

16

17 **Q. Is the proposed increase sufficient to fully support all of the Commission's strategic**
18 **goals?**

⁶ *In the Matter of the Nebraska Public Service Commission, on its own motion, to consider revisions to the universal service fund contribution methodology*, Application No. NUSF-100, PI-193, Order Soliciting Legal Briefs (July 12, 2016).

1 A. The Commission has set a goal to support “Deployment of Fiber-based Network
2 Everywhere,” which it claims would cost \$255 million⁷ and I have replicated that result
3 in the SBCM. However, in an effort to balance the requirement that voice service remain
4 affordable with limiting the burden on rate payers, the Commission proposes to only
5 make available \$71 million annually for all NUSF programs. The proposal appears to
6 maintain a comparable contribution burden for subscribers of intrastate
7 telecommunications service, meaning that the changes should not be overly burdensome
8 to consumers. Therefore, while it may not be sufficient to meet the Commission’s goals
9 at this time, I think that the Commission’s proposed increase is appropriate.

10

11 **Q. Does the allocation of NUSF dollars between the programs meet the commission’s**
12 **goals?**

13 A. Yes, the allocation is reasonable. The Fixed Broadband Program has been decreasing for
14 years and the proposed funding levels would increase this program distributions from
15 approximately \$36.7 million in 2017 to \$54 million in 2018 – an amount consistent with
16 remittances made approximately 10 years ago.

17

18 **Q. Does this conclude your testimony?**

19 A. Yes, it does.

⁷ Order Seeking Hearing at p. 22.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of the Direct Testimony of Stacy Brigham on behalf of the Rural Telecommunications Coalition of Nebraska was served by electronic mail and hand delivered on March 24, 2017, addressed as shown below, to the following:

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